

IOWA DEPARTMENT OF NATURAL RESOURCES

ADMINISTRATIVE CONSENT ORDER

IN THE MATTER OF:

**RIPLEY, INC. DBA
CLEARVIEW MOBILE HOME PARK
Wastewater Facility No. 06-70-00-6-00**

**ADMINISTRATIVE
CONSENT ORDER
NO. 2008-WW-30**

**TO: David Ripley
Ripley, Inc. dba Clearview Mobile
Home Park,
2881 Highway 61 NE
Muscatine, Iowa 52761**

I. SUMMARY

This administrative consent order (order) is entered into between Ripley, Inc. dba Clearview Mobile Home Park (Clearview) and the Iowa Department of Natural Resources (Department). Clearview hereby agrees to comply with the schedule contained in this order for wastewater treatment facility improvements. This order is entered into to settle the appeal of this facility's NPDES Permit. In the interest of avoiding litigation, the parties have agreed to the following provisions.

Any questions regarding this order should be directed to:

Relating to technical requirements:

Jim Sievers
Environmental Specialist Senior
IDNR Field Office No. 6
1023 West Madison
Washington, Iowa 52353-1623
Ph: 319/653-2135

Relating to legal requirements:

Diana Hansen
Attorney at Law
Iowa Department of Natural Resources
502 East 9th Street
Des Moines, Iowa 50319-0034
Ph: 515/281-6267

II. JURISDICTION

The parties hereby agree that this order is issued pursuant to Iowa Code section 455B.175(1), which authorizes the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division III, Part I,

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and the rules promulgated or permits issued pursuant thereto, and Iowa Code section 455B.109 and 567 Iowa Administrative Code (IAC) chapter 10, which authorize the Director to assess administrative penalties.

III. STATEMENT OF FACTS

The parties agree to the following statement of facts.

1. Ripley, Inc. operates the Clearview Mobile Home Park. Ripley's Development Corp. owns the property upon which the Clearview Mobile Home Park is located and leases it to Ripley, Inc. For the purposes of this order this facility will be referred to as Clearview. Clearview is located at 2881 Highway 61 NE, Muscatine, Iowa 52761 in Muscatine County, Iowa. This mobile home park is served by two wastewater treatment systems. One system consists of two aerated continuous discharge systems referred to as Pond 1 and Pond 2 that discharge through a combined outfall, Outfall 001. The second system is a four cell controlled discharge lagoon that discharges through Outfall 001. Effluent is discharged to Mad Creek, pursuant to Iowa NPDES Permit No. 06-70-00-6-00.

2. The NPDES permit was issued for the two wastewater treatment facilities (WWTF's) on December 17, 2001. The NPDES permit contained limitations on influent and effluent flow rates, CBOD5, TSS and ammonia nitrogen effluent limits, monitoring requirements and other terms as set forth by the permit. The NPDES permit contained a schedule for upgrading the existing facility to meet the effluent limits in the permit, including new ammonia nitrogen effluent limits.

3. The NPDES permit was timely appealed. One of the main issues raised was the compliance schedule for an upgrade to the wastewater treatment systems for serving Clearview. The intent of this order is to resolve the permit appeal and to enter into a compliance schedule that will result in either an upgrade to or replacement of the existing wastewater treatment systems or connection to the City of Muscatine wastewater collection and treatment system. An application for renewal of the NPDES permit is on file with the Department.

4. Field Office No. 6 conducted an inspection at Clearview on October 31, 2007. The inspection report reviewed monthly operation report data for the months of January 2006 through July 2007. The inspection report noted that both wastewater treatment systems received CBOD5 test results that exceeded the CBOD5 limits stated in the NPDES permit under appeal. Additionally, the inspection report noted that the continuous discharge systems discharging through Outfall 101 experienced ammonia nitrogen and TSS test results that exceeded the limits for these parameters included in the NPDES permit under appeal. Field Office No. 6 inspection reports and MOR data for this facility prior to issuance of the NPDES permit under appeal indicated test results that exceeded the

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standard secondary treatment permit limits in the prior NPDES permit for TSS and BOD5.

5. Clearview is in the process of repairing the WWTF's. Leaks in the lagoons are being repaired and spillways are being fixed. The flow meters have been recalibrated. Clearview has entered into an easement with an adjacent land owner to allow for a sewer connection to be constructed through the neighboring land owner's property. Clearview is in the process of negotiations with the City of Muscatine concerning providing sewer service to Clearview.

6. The parties agree that the flows indicated in the calculations of the Department's project engineer as stated in a February 28, 2008 email note to Clearview's engineer would be controlling for the purpose of requesting a wasteload allocation (WLA) from the Department's Water Resources Section. These flow calculations were based on the information provided to the Department's project engineer by Clearview's engineering consultant. These flow calculations would be controlling unless revised flow calculations are agreed upon by both the Department's project engineer and Clearview's engineer.

Clearview's engineer requested that the Department not factor in any growth over the next twenty years in calculating the design flows for this facility. The Department's position on this is that the Department would agree to not include future growth or the addition of new manufactured homes to the flow calculations based on agreement by Clearview that no further homes would be added to the vacant lots at the mobile home park. This paragraph can be modified upon mutual agreement of the parties.

IV. CONCLUSIONS OF LAW

The parties agree that the following conclusions of law are applicable to this matter.

1. Iowa Code section 455B.186 prohibits the discharge of pollutants into waters of the state, except for adequately treated pollutants discharged pursuant to a permit. Iowa Code section 455B.183 prohibits the operation of a wastewater disposal system without a permit from the Department.

2. Iowa Code section 455B.173 authorizes and requires the Environmental Protection Commission (Commission) to promulgate rules relating to the operation of waste disposal systems, including rules relating to monitoring and reporting requirements. The Commission has done so at 567 IAC chapters 60- 64. Subrule 64.3(1) prohibits the operation of a waste disposal system without or contrary to the terms of a permit. Subrule 64.7 specifies the conditions that are to be included in a permit, including applicable effluent limitations in chapters 61 and 62 of the rules.

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3. This facility's NPDES permit requires facilities to be adequately operated and maintained. Standard Condition 8 of the permit provides that all facilities and control systems shall be operated as efficiently as possible and maintained in good working order. This standard permit condition is based upon subrule 64.7(5)"F". This subrule states "the permittee at all times shall maintain in good working order and operate as efficiently as possible any facilities or systems of control to achieve compliance with the terms and conditions of the permit."

V. ORDER

THEREFORE, the Department orders and Clearview agrees to comply with the following provisions.

1. Clearview is required to submit a complete facility plan meeting Department design standards to the Department project manager by June 30, 2009 following reaching final agreement on design flows with the Department's project engineer, request for a WLA by Clearview's engineer, and receipt of a final WLA from the Department's Water Resources Section. The facility plan is required to list the various alternatives considered for Clearview, including but not limited to, upgrading the existing WWTF's, replacing the existing WWTF's, or connecting to the City of Muscatine wastewater collection and treatment system. The facility plan is required to state which alternative is selected. If an upgrade to the existing WWTF's or replacement of the existing WWTF's is selected, the alternative selected must be designed to meet final effluent limits in the new NPDES permit based upon the recently revised water quality rules for ammonia nitrogen, recently adopted stream use designations and other current Department rules.

In the event that a plant upgrade is the selected alternative, it is required that the influent piping to both WWTF's be modified such that the influent from the developments be combined and enter each treatment facility at one central location rather than from different locations and that adequate influent monitoring devices and structures be constructed to monitor and record the wastewater flows. A treatment plant upgrade is required to modify the WWTF's to allow the treatment plants to function as a true controlled discharge lagoon facility and a true aerated lagoon facility or modification thereof.

2. If connection to the City of Muscatine is the selected alternative, Clearview is required to provide an executed agreement with the City of Muscatine to the Department at the time of submittal of the facility plan to the Department. The agreement with the City of Muscatine is required to provide for connection to the City of Muscatine's collection and wastewater treatment system by December 1, 2010.

3. If an alternative involving the upgrading of the existing WWTF's or replacement by a new WWTF is selected, Clearview is required to submit complete final Plans and

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Specifications meeting Department requirements and design standards and a construction permit application meeting Department requirements and design standards by April 30, 2010.

4. If a facility upgrade or replacement is the selected alternative in the facility plan, Clearview is required to begin construction of the upgrade to existing WWTF's or the replacement facility by September 1, 2010 and to complete construction by October 1, 2011.

5.a. If the performance of any part of this Order by Clearview or the Department is prevented, hindered or delayed by reason of any cause or causes beyond the control of Clearview or the Department, as the case may be, and which cannot be overcome by due diligence, the party affected shall be excused from such performance to the extent that it is necessarily prevented, hindered or delayed thereby, during the continuance of any such happening or event, and this Order shall be deemed suspended so long as and to the extent that any such cause prevents or delays its performance.

b. The party claiming to be affected thereby shall give notice to the other party within a reasonable time after the happening thereof of the nature and extent of any force majeure condition referred to in paragraph 5.a above claimed to exist, and the terms and conditions of such paragraph 5.a above claimed to exist, and the terms and conditions of such paragraph shall not become operative unless such notice has been given

6. Clearview agrees to dismissal of the appeal of the NPDES permit and that the NPDES permit under appeal would become effective as of the date of the Administrative Law Judge's order dismissing the appeal and remain in effect until such time as the NPDES permit is reissued for this facility or this facility is connected to the City of Muscatine wastewater collection and treatment system.

VI. PENALTY

1. Iowa Code section 455B.191 authorizes the assessment of civil penalties for the violations involved in this matter.

2. Iowa Code section 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties that may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties in Chapter 567 IAC chapter 10. Pursuant to these rules the Department has determined that the most effective and efficient means of addressing the NPDES permit appeal is the issuance of an order without a penalty.

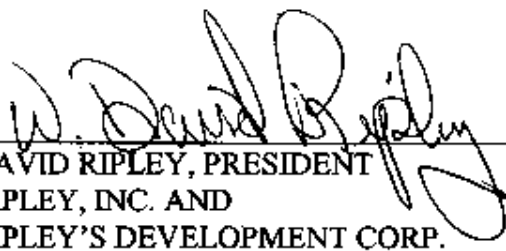
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VII. WAIVER OF APPEAL RIGHTS

Iowa Code section 455B.175, and 561 IAC 7.5(1), as adopted by reference by 567 IAC chapter 7, authorize a written notice of appeal to the Commission. This order is entered into knowingly by and with the consent of Clearview. By signature to this order, all rights to appeal this order are waived.

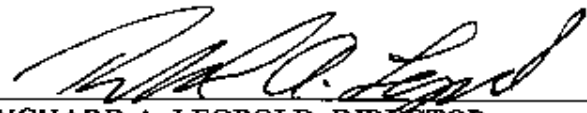
VIII. NONCOMPLIANCE

Failure to comply with this order may result in the imposition of administrative penalties pursuant to an administrative order or referral to the Attorney General to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B.191.



DAVID RIPLEY, PRESIDENT
RIPLEY, INC. AND
RIPLEY'S DEVELOPMENT CORP.

Dated this 30th day of
October, 2008.



RICHARD A. LEOPOLD, DIRECTOR
IOWA DEPARTMENT OF NATURAL RESOURCES

Dated this 6 day of
Nov., 2008.

Ripley, Inc. dba Clearview Mobile Home Park- Wastewater Facility No. 06-70-00-6-00
(Central Records File), Tom Atkinson- NPDES Permits, Satya Chennupati- Department
Project Engineer, Jim Sievers- Field Office No. 6, Diana Hansen- Legal Services, I.B.2.d